

Applicants: Long Sheng Yu, et al.
U.S. Serial No.: 10/799,534
Filed: March 12, 2004
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REMARKS

Claims 1-10 and 12 are pending in the subject application. By this Amendment, applicants have amended claims 1, 3, 5 and 12, cancelled claim 2 and 7 without prejudice or disclaimer, and added new claims 14-17. Support for the amendments to claims 1, 3, 5 and 12 and new claims 14-17 is found throughout the specification as originally filed, *inter alia*, on page 3, lines 5 and 10-11; page 6, lines 22-23; page 7, lines 1-2; page 8, line 5; and page 11, lines 1-2.

No issue of new matter is raised by these amendments. Accordingly, upon entry of this Amendment, claims 1, 3-6, 8-10 and 12, as amended, and new claims 14-17, will be pending in the subject application.

In view of the preceding claim amendments and the remarks which follow, applicants maintain that the grounds of rejections set forth in the October 4, 2010 Office Action have been overcome, and respectfully request that the Examiner reconsider and withdraw these grounds of rejection.

Rejections Under 35 U.S.C. §102/103

A. The Examiner rejected claims 1-3 and 7-10 as allegedly anticipated by or, in the alternative, as allegedly obvious over Kahn et al. (U.S. Patent 3,766,567). Applicants respectfully traverse this rejection.

Applicants have amended independent claim 1 herein to incorporate the limitations of claim 7. As amended, independent claim 1 recites "a gripping member configured to receive said extended

inflow tube and couple to an exterior surface of said extended inflow tube."

Applicants respectfully submit that Kahn does not disclose or suggest "a gripping member configured to receive said extended inflow tube and couple to an exterior surface of said extended inflow tube," as recited in Applicants' amended independent claim 1. In rejecting claim 7, the Examiner asserts that the sewing flange, in Kahn, is a gripping member. Office Action, p. 4. Further, the Examiner "considers the sewing ring to function as a gripping member to attach the inflow tube to the ventricular apex."

Contrary to the Examiner's assertion, applicants contend that the sewing flange is not a gripping member, as in applicants' claims. Rather, the sewing flange uses sutures to attach the sewing flange. Kahn discloses "a sewing flange 76 for *suturing* the apex connector 74 to the heart muscle." Kahn, col. 6, lines 6-8 (emphasis added). Further, "[t]he sewing flange 76 may be attached to the body of the apex connector 74 by *suturing through holes* 84 provided around the periphery of a flange 85 that is part of the rigid tubing 77." Kahn, col. 6, lines 18-23 (emphasis added). Applicants respectfully submit that *suturing a sewing flange through holes* provided in a periphery of a flange does not disclose or suggest "a gripping member configured to couple to an exterior surface of said extended inflow tube," as recited in applicants' amended independent claim 1.

For at least this reason, Kahn does not disclose or suggest "a gripping member configured to receive said extended inflow tube and couple to an exterior surface of said extended inflow tube," as recited in applicants' amended independent claim 1, and by

extension all other rejected claims which are dependent thereupon. Accordingly, applicants respectfully submit that the rejection of claims 1-3 and 7-10 under 35 U.S.C. § 102/§ 103, is overcome and should be withdrawn. Reconsideration is respectfully requested.

B. The Examiner rejected claims 4, 6 and 12 as allegedly unpatentable over Kahn et al. (U.S. Patent 3,766,567) or the modified Kahn et al. as applied to claims 1-3 and 7-10 above. Applicants respectfully traverse this rejection.

As described above, Kahn does not disclose or suggest "a gripping member configured to receive said extended inflow tube and couple to an exterior surface of said extended inflow tube," as recited in applicants' amended independent claim 1, and by extension all other rejected claims which are dependent thereupon, including claims 4 and 6.

Regarding independent claim 12, applicants have amended independent claim 12 to recite "a coupling having gripping pads configured to attach said coupling to the adapter sleeve."

Applicants respectfully submit that Kahn does not disclose or suggest "a coupling having gripping pads configured to attach said coupling to the adapter sleeve," as recited in applicants' amended independent claim 12. In fact, Kahn makes no mention at all of "gripping pads" or "a coupling having gripping pads configured to attach said coupling to the adapter sleeve."

For at least these reasons, applicants respectfully submits that Kahn does not render amended independent claims 1 and 12, and by extension all other claims which are dependent thereupon, including claims 4 and 6, obvious to one skilled in the art.

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Accordingly, applicants respectfully submit that the rejection of claims 4, 6, and 12 under 35 U.S.C. § 103 is overcome and should be withdrawn. Reconsideration is respectfully requested.

C. The Examiner rejected claim 5 as allegedly unpatentable over Kahn et al. (U.S. Patent 3,766,567) or the modified Kahn et al. as applied to claims 1-3 and 7-10 above. Applicants respectfully traverse this rejection.

As described above, Kahn does not disclose or suggest "a gripping member configured to receive said extended inflow tube and couple to an exterior surface of said extended inflow tube," as recited in applicants' amended independent claim 1, and by extension claim 5 which is dependent thereupon.

Additionally, the Examiner acknowledges that Kahn does not disclose "perforations on the adapter sleeve." Office Action, p. 5. However, the Examiner asserts that "[i]t would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the device of Kahn with grooves forming perforations in order to provide the predictable results of customizing the size of the adapter sleeve in order to modify the device to meet specific patient needs." Office Action, p 5-6.

Applicants respectfully disagree. Applicants' claimed invention is not disclosed or suggested anywhere in the cited reference. It appears that in creating this obviousness rejection the Examiner gleaned knowledge from the applicants' disclosure contrary to *KSR*, which states "[a] factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007). Applicants respectfully

request that the rejected claim be reconsidered in light of well-established legal principles, which provide,

"[a] patent [claim] composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known." *Id.* at 418-19.

The particular teachings that the Examiner suggests, in hindsight with the benefit of applicants' disclosure, in an attempt to arrive at applicants' claimed invention, are neither taught nor suggested by the cited reference. The Examiner has not provided any "reason that would have prompted a person of ordinary skill in the relevant field" to modify the cited reference to arrive at applicants' claimed invention in order to support the obviousness rejection the Examiner has made, other than merely restating information disclosed in Applicants' specification.

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In any event, applicants submit that the teachings of Kahn do not arrive at applicants' claimed invention as amended. Applicants' claimed invention, as amended, is patentably distinct from that of Kahn, as Kahn does not disclose or suggest "a gripping member configured to receive said extended inflow tube and couple to an exterior surface of said extended inflow tube," as recited in applicants' amended independent claim 1. For at least these reasons, applicants respectfully submit that Kahn does not render amended independent claim 1, and by extension all other claims which are dependent thereupon, including claim 5, obvious to one skilled in the art. Accordingly, applicants respectfully submit that the rejection of claim 5 under 35 U.S.C. § 103 is overcome and should be withdrawn. Reconsideration is respectfully requested.

New Claims 14-17

New claims 14-17 depend upon claim 1 and are believed to be patentable over Kahn for the above discussed reasons.

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CONCLUSION

A sincere effort has been made to distinguish the invention from the prior art reference. In view of the amendments and remarks made hereinabove, applicants respectfully submit that the grounds of rejection set forth in the October 4, 2010 Office Action have been overcome. Accordingly, applicants earnestly solicit allowance of the claims now pending, i.e. claims 1, 3-6, 8-10 and 12, as amended, and new claims 14-17.

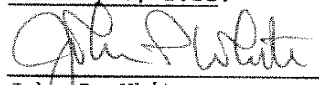
If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee, is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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